



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

---

86 Chambers Street  
New York, NY 10007

June 10, 2020

By ECF and Federal Express  
Honorable Lorna G. Schofield  
United States District Judge  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *New York Legal Assistance Group v. DeVos, et al.*, No. 20 Civ. 1414 (LGS)

Dear Judge Schofield:

This Office represents Defendants in the above-referenced action. We are enclosing with a copy of this letter, sent via Federal Express, a CD-ROM which contains the administrative record, as produced to Plaintiff on June 9, 2020. Defendants' certification of the records and an index of all of the Bates-numbered pages included in the production are being filed as exhibits to this letter, and are also included on the CD-ROM.

In light of the volume of material contained on this CD-ROM (over 8,000 pages and over 350 megabytes), the administrative record that will accompany the Government's motion will be voluminous, and it will therefore not be practicable to file the record either on ECF or in hard copy with the Clerk of the Court. Defendants respectfully request that the Court endorse this letter granting Defendants leave to file these records with the Clerk of the Court via CD-ROM. Plaintiff consents to this request.

I thank the Court for its consideration of this request.

Respectfully,

GEOFFREY S. BERMAN  
United States Attorney for the  
Southern District of New York

By:

A handwritten signature in black ink, appearing to read "J.C.S."

Jennifer C. Simon  
Assistant United States Attorney  
86 Chambers Street, Third Floor  
New York, New York 10007  
Tel.: (212) 637-2746

## Exhibit A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NEW YORK LEGAL ASSISTANCE GROUP, )  
Plaintiff, )  
  ) Case No. 20 Civ. 1414  
-v- )  
  ) ADMINISTRATIVE RECORD  
  ) INDEX  
ELISABETH DeVOS, in her official capacity )  
as Secretary of Education, )  
  )  
and )  
  )  
UNITED STATES DEPARTMENT OF )  
EDUCATION, )  
  )  
Defendants. )  
  )

---

**Department of Education**  
34 C.F.R. Parts 668, 682 and 685  
*Student Assistance General Provisions, Federal Family Education Loan Program and  
William D. Ford Federal Direct Loan Program*  
Docket ID ED-2018-OPE-0027, September 23, 2019

34 C.F.R. Parts 668, 682, 685  
*Negotiated Rulemaking Committees;  
Negotiator Nominations and Schedule  
of Committee Meetings—Borrower  
Defenses, Financial Responsibility,  
and Gainful Employment*  
Docket ID ED-2017-OPE-0076, August 30, 2017

**ADMINISTRATIVE RECORD INDEX**

**SECTION A – BORROWER DEFENSE: 2019 FINAL RULE**

Borrower Defense: Final Rule, Sept. 23, 2019 .....	AR-A-0000001
OMB Meetings on Borrower Defense, Aug. 14-Aug. 27, 2019 .....	AR-A-0000147
August 14, 2019 – 4:00 p.m.....	AR-A-0000147
August 22, 2019 – 1:00 p.m. ....	AR-A-0000148

August 27, 2019 – 10:30 a.m., with Attachments.....	AR-A-000149
Attachment: Murray ACSD Data with TCF Analysis – Excel Spreadsheet .....	AR-A-000150
Attachment: Exhibit 5 from <i>Education Corporation of America</i> litigation.....	AR-A-0000158
Attachment: Murray Supp. p1 Borrowers and Outstanding Loan Vol. Eligible for Closed School Discharge .....	AR-A-0000174
Murray pp. 43, 65 Borrower Defense and Transfer School Groups.....	AR-A-0000175
The Century Foundation Commentary, <i>New Data Supports Rejection of DeVos Arbitration Regulations</i> (Nov. 9, 2018) .....	AR-A-0000177
The Century Foundation Commentary, <i>For-Profit Colleges Continue to Generate Most Loan Relief Claims</i> (June 25, 2019) .....	AR-A-0000182
Information Collection Approved, OMB Control No. 1845- 0004, Sept. 30, 2019 .....	AR-A-0000190
Information Collection Approved, OMB Control No. 1845- 0020, Sept. 23, 2019 .....	AR-A-0000192
Information Collection Approved, OMB Control No. 1845- 0021, Sept. 30, 2019 .....	AR-A-0000194
Information Collection Approved, OMB Control No. 1845- 0022, Sept. 30, 2019 .....	AR-A-0000196
Information Collection Approved, OMB Control No. 1845- 0143, Feb. 12, 2020.....	AR-A-0000198
Borrower Defense Final Regulations Press Release, Aug. 30, 2019.....	AR-A-0000200
Borrower Defense Rulemaking Web Page, <a href="https://www2.ed.gov/policy/highered/reg/hearulemaking/2017/borrowerdefense.html">https://www2.ed.gov/policy/highered/reg/hearulemaking/2017/ borrowerdefense.html</a> .....	AR-A-0000202

**SECTION B – BORROWER DEFENSE: NOTICE OF PROPOSED RULEMAKING**

Borrower Defense: Notice of Proposed Rulemaking (NPRM), July 31, 2018.....	AR-B-0000001
OMB Meetings on Borrower Defense, May 15 – June 8, 2018 .....	AR-B-0000090
May 15, 2018 – 10:00 a.m. ....	AR-B-0000090
May 16, 2018 – 4:00 p.m. ....	AR-B-0000091
May 17, 2018 – 9:30 a.m. ....	AR-B-0000092
May 25, 2018 – 2:00 p.m. ....	AR-B-0000093
May 30, 2018 – 11:30 a.m. ....	AR-B-0000094
May 30, 2018 – 3:30 p.m. ....	AR-B-0000095
May 31, 2018 – 11:00 a.m. ....	AR-B-0000096
June 5, 2018 – 10:00 a.m., with attachment.....	AR-B-0000097
Attachment: Center for Responsible Learning, Memo (Dec. 8, 2017) .....	AR-B-0000098
June 7, 2018 – 2:00 p.m. ....	AR-B-0000106
June 8, 2018 – 11:00 a.m. ....	AR-B-0000107

**SECTION C – BORROWER DEFENSE: NOTICE OF ESTABLISHMENT OF  
NEGOTIATED RULEMAKING**

Notice of Intent to Establish Rulemaking Committee and Public Hearings, June 16, 2017.....	AR-C-0000001
Public Hearing, Washington, D.C, July 10, 2017, list of presenters .....	AR-C-0000003
Public Hearing, Washington, D.C, July 10, 2017, transcript.....	AR-C-0000006
Public Hearing, Dallas, TX, July 12, 2017, list of presenters.....	AR-C-0000275
Public Hearing, Dallas, TX, July 12, 2017, transcript .....	AR-C-0000277
Announcement of Negotiator Constituencies and Sessions, Aug. 30, 2017.....	AR-C-0000402

**SECTION D – BORROWER DEFENSE: NEGOTIATED RULEMAKING SESSION 1,  
NOVEMBER 13-15, 2017**

List of Negotiators .....	AR-D-0000001
Borrower Defense, Organizational Protocols .....	AR-D-0000005
Agenda .....	AR-D-0000010
Transcript, Nov. 14, 2017 Session .....	AR-D-0000011
Transcript, Nov. 15, 2017 Session .....	AR-D-0000406
Session 1, Meeting Summary .....	AR-D-0000727
Pre-Session 1, Materials from the Department .....	AR-D-0000732
Session 1, Materials from Non-Federal Negotiators.....	AR-D-0000747
Written Comment: Distance Education Accrediting Commission .....	AR-D-0000747
State Attorneys General and Federal Agency Settlements with Schools.....	AR-D-0000752
Comments on Issue Papers .....	AR-D-0000754
AACOM Comments on Notice of Intent to Establish Negotiated Rulemaking Committees .....	AR-D-0000764
Rocky Vista Univ. Comments on Notice of Intent to Establish Negotiated Rulemaking Committee .....	AR-D-0000767
ITT Letter regarding Complaint.....	AR-D-0000775
Section on Recruiting from 2012 Senate HELP Report on For-Profit Schools .....	AR-D-0000778

**SECTION E – BORROWER DEFENSE: NEGOTIATED RULEMAKING SESSION 2,  
JANUARY 8-11, 2018**

Borrower Defense: Session 2, Agenda, Jan. 8-11, 2018.....	AR-E-0000001
Transcript, Jan. 8, 2018.....	AR-E-0000002
Transcript, Jan. 9, 2018.....	AR-E-0000195
Transcript, Jan. 10, 2018 .....	AR-E-0000384
Transcript, Jan. 11, 2018 .....	AR-E-0000577

Session 2, Meeting Summary .....	AR-E-0000783
Pre-Session 2, Materials from the Department .....	AR-E-0000786
Issue Paper No. 1 .....	AR-D-0000786
Issue Paper No. 2 .....	AR-D-0000792
Issue Paper No. 3 .....	AR-D-0000798
Issue Paper No. 4 .....	AR-D-0000808
Issue Paper No. 5 .....	AR-D-0000817
Issue Paper No. 6 .....	AR-D-0000821
Issue Paper No. 7 .....	AR-D-0000823
Issue Paper No. 8 .....	AR-D-0000826
Pre-Session 2, Materials from Non-Federal Negotiators .....	AR-E-0000828
Email from Suzanne Martindale (Consumers Union) to Barbara Hoblitzell (Dec. 8, 2017) with attachments.....	AR-E-0000828
Email from Abby Shafrroth (NCLC) to Barbara Hoblitzell (Dec. 8, 2017) with attachments.....	AR-E-000843
Session 2, Materials from the Department.....	AR-E-0000879
Remarks of James F. Manning, Jan. 8, 2018 .....	AR-E-0000879
Report from Subcommittee.....	AR-E-0000884
Borrower Defense Claims: Data Analysis, Nov. 2017 .....	AR-E-0000901
BD Data Sheets A-F.....	AR-E-0000907
Department of Justice Brief in <i>Epic Systems Corp. v. Lewis</i> .....	AR-E-0000916
Session 2, Materials from Non-Federal Negotiators.....	AR-E-0000970
Attestation for Certain Heald College Students submitted by Chris DeLuca .....	AR-E-0000970
Proposed Language submitted by Alyssa Dobson.....	AR-E-0000976
Article II Early Complaint Resolution and Rapid Resolution Process submitted by Chris DeLuca.....	AR-E-0000977
Issue Paper No. 2 revisions submitted by Chris DeLuca.....	AR-E-0000980
Issue Paper 1 comments submitted by students, <i>et al.</i> .....	AR-E-0000988

Email from Linda Rawles to Barbara Hoblitzell  
 submitting proposed SEC language ..... AR-E-0000992

Issue Paper No. 7 comments submitted by Jaye O'Connell ..... AR-E-0000993

**SECTION F – BORROWER DEFENSE: NEGOTIATED RULEMAKING SESSION 3,  
 FEBRUARY 12-15, 2018**

Borrower Defense: Session 3, Agenda .....	AR-F-0000001
Transcript, Feb. 12, 2018 .....	AR-F-0000002
Transcript, Feb. 13, 2018 .....	AR-F-0000335
Transcript, Feb. 14, 2018 .....	AR-F-0000630
Transcript, Feb. 15, 2018 .....	AR-F-0000893
Session 3, Meeting Summary .....	AR-F-0001153
Pre-Session 3, Materials from the Department .....	AR-F-0001155
Issue Paper No. 1 – Federal Standard .....	AR-F-0001155
Issue Paper No. 2 – Process .....	AR-F-0001162
Appendix A – Proprietary Schools .....	AR-F-0001171
Appendix B – Examples .....	AR-F-0001173
Appendix B – Nonprofit Schools.....	AR-F-0001176
Issue Paper No. 3 – Financial Responsibility and Administrative.....	AR-F-0001178
Issue Paper No. 4 – Pre-dispute Arbitration Agreements, Class Action Waivers, and Internal Dispute Processes .....	AR-F-0001188
Issue Paper No. 5 – Closed School Discharge.....	AR-F-0001198
Issue Paper No. 6 – False Certification.....	AR-F-0001203
Issue Paper No. 7 – Guaranty Agency Collection Fees .....	AR-F-0001205
Issue Paper No. 8 - Subsidized Usage Period Recalculation .....	AR-F-0001207
Session 3, Materials from the Department.....	AR-F-0001209
Issue Paper No. 1 Final Draft, clean .....	AR-F-0001209
Issue Paper No. 1 Final Draft, redlined.....	AR-F-0001214
Issue Paper No. 2 Final Draft, clean .....	AR-F-0001220
Issue Paper No. 2 Final Draft, redlined.....	AR-F-0001228

Session 3, Materials from Non-Federal Negotiators - List of Concerns .....	AR-F-0001236
Session 3, Materials from the Department - VCR Language.....	AR-F-0001237

**SECTION G - BORROWER DEFENSE: DOCUMENTS CITED IN FINAL RULE OR  
NPRM**

**Cases:**

<i>American Commercial Colleges, Inc. v. Davis</i> , 821 S.W.2d 450 (Tex. App. Eastland 1991) .....	AR-G-0000001
<i>AT&amp;T Mobility LLC v. Concepcion</i> , 563 U.S. 333 (2011) .....	AR-G-0000006
<i>Bauer v. DeVos</i> , 17-cv-1330 (Complaint, July 6, 2017).....	AR-G-0000022
<i>Bauer v. DeVos</i> , 17-cv-1330 (Memo. Opinion and Order, Sept. 12, 2018) .....	AR-G-0000041
<i>Bauer v. DeVos</i> , 17-cv-1330 (Memo. Opinion and Order, Sept. 17, 2018) .....	AR-G-0000098
<i>Bauer v. DeVos</i> , 17-cv-1330 (Minute Order, Oct. 2, 2018).....	AR-G-0000106
<i>Bible v. United Student Aid Funds, Inc.</i> , 799 F.3d. 633 (7th Cir. 2015).....	AR-G-0000108
<i>Bradford v. George Washington University</i> , 249 F.Supp. 3d 325 (D.D.C. 2017) .....	AR-G-0000138
<i>California Ass'n of Private Postsecondary Schools v. DeVos</i> , 17-cv-00999 (Complaint, May 24, 2017) .....	AR-G-0000146
<i>California Ass'n of Private Postsecondary Schools v. DeVos</i> , 17-cv-00999 (Memo. Opinion and Order, Oct. 16, 2018) .....	AR-G-0000222
<i>Chow v. Aegis Mortgage Corporation</i> , 185 F.Supp. 914 (N.D.Ill 2002) ....	AR-G-0000259
<i>City of St. Joseph, Mo. v. Southwestern Bell Telephone</i> , 439 F.3d 468 (8th Cir. 2006) .....	AR-G-0000262
<i>CompuCredit Corp. v. Greenwood</i> , 565 U.S. 95 (2012) .....	AR-G-0000269

<i>Epic Systems Corp. v. Lewis</i> , 584 U.S.—, 2018 WL 2292444 (May 21, 2018).....	AR-G-0000280
<i>Fabbro v. DRX Urgent Care, LLC</i> , 616 Fed. Appx. 485 (3rd Cir. 2015) .....	AR-G-0000305
<i>FCC v. Fox Television Stations, Inc.</i> , 556 U.S. 502 (2009).....	AR-G-0000309
<i>Gertz v. Robert Welch, Inc.</i> , 418 U.S. 323 (1974) .....	AR-G-0000338
<i>Goldberg v. Kelley</i> , 397 U.S. 254 .....	AR-G-0000370
<i>Harte-Hanks Communications, Inc. v. Connaughton</i> , 491 U.S. 657 (1989).....	AR-G-0000380
<i>Hercules &amp; Co., Ltd. v. Shama Restaurant Corp.</i> , 613 A.2d 916 (D.C. Cir. 1992) .....	AR-G-0000401
<i>Hiatt v. Indiana State Student Assistance Comm. (In re Hiatt)</i> , 36 F.3d. 21 (7th Cir. 1994) .....	AR-G-0000419
<i>In re APA Assessment Fee Litigation</i> , 766 F.3d 39 (D.C. Cir. 2014) .....	AR-G-0000423
<i>In re McBurney</i> , 357 B.R. 536 (9th Cir BAP 2006) .....	AR-G-0000434
<i>Indy Lube Investments, LLC v. Wal-Mart Stores, Inc.</i> , 199 F. Supp. 2d 1114 (D.Kan. 2002).....	AR-G-0000438
<i>Massachusetts v. Department of Education</i> , 17-cv-01331 (Complaint, July 6, 2017).....	AR-G-0000448
<i>Master-Halco, Inc. v. Scillia Dowling &amp; Natarelli, LLC</i> , 739 F.Supp.2d 109 (D. Conn. 2010).....	AR-G-0000485
<i>Mid Atlantic Framing, LLC. v. Varish Construction, Inc.</i> , 117 F.Supp.3d 145 (N.D.N.Y. 2015) .....	AR-G-0000496
<i>Newton v. Kenific Group</i> , 62 F.Supp.3d 439 (D. Md. 2015) .....	AR-G-0000503
<i>Redmond v. State Farm Ins. Co.</i> , 728 A.2d 1202 (D.C. 1999) .....	AR-G-0000508
<i>Sargiss v. Magarelli</i> , 12 NY3d 527 (2009).....	AR-G-0000515
<i>Stevens v. JPMorgan Chase Bank, N.A.</i> , 2010 WL 329963 (N.D. Cal. 2010).....	AR-G-0000519

*Sundberg v. TTR Realty*, 109 A.3d 1123 (D.C. 2015) ..... AR-G-0000525

### **Other Legal Resources**

American Arbitration Association, *Commercial Arbitration Rules and Mediation Procedures: Administrative Fee Schedules*, May 1, 2018,  
[https://www.adr.org/sites/default/files/Commercial\\_Arbitration\\_Fee\\_Schedule\\_1.pdf](https://www.adr.org/sites/default/files/Commercial_Arbitration_Fee_Schedule_1.pdf) ..... AR-G-0000532

American Arbitration Association, *The Code of Ethics for Arbitrators in Commercial Disputes*, effective March 1, 2004,  
[https://www.adr.org/sites/default/files/document\\_repository/Commercial\\_Code\\_of\\_Ethics\\_for\\_Arbitrators\\_2010\\_10\\_14.pdf](https://www.adr.org/sites/default/files/document_repository/Commercial_Code_of_Ethics_for_Arbitrators_2010_10_14.pdf) ..... AR-G-0000535

Federal Rules of Civil Procedure, Rule 23 (Dec. 2018) ..... AR-G-00000545

National Conference of Commissioners on Uniform State Laws,  
*Uniform Arbitration Act* (Revised 2000),  
<https://www.uniformlaws.org/viewdocument/final-act-1?CommunityKey=a0ad71d6-085f-4648-857a-e9e893ae2736&tab=librarydocuments> ..... AR-G-0000552

Restatement (Third) of Torts: Liab. for Econ.  
Harm § 9 Fraud, TD No 2 (2014) ..... AR-G-0000648

Wash. Rev. Code section 28B.160.020 (2018) ..... AR-G-0000656

### **Articles**

Carnevale, A., et al., *Learning While Earning: The New Normal*,  
Center on Education and the Workforce, Georgetown University, 2015 .... AR-G-0000657

Christensen, C. and Horn, M.,  
*Innovation Imperative: Change Everything*, The New York Times,  
<https://www.nytimes.com/2013/11/03/education/edlife/online-education-as-an-agent-oftransformation.html> (Nov. 1, 2013) ..... AR-G-0000727

Copland, J., et al., *Class Actions and Mass Torts*,  
Trial Lawyers, Inc. 2016, Manhattan Institute,  
<https://media4.manhattaninstitute.org/sites/default/files/TLI-0116.pdf> (2016) ..... AR-G-0000730

- Flaherty, C., *When College Goes Under, Everyone Suffers, but Mount Ida's Faculty Feels a Particular Sense of Betrayal*,  
[www.insidehighered.com/news/2018/04/23/when-college-goes-under-everyone-suffers-mountidas-faculty-feels-particular-sense](http://www.insidehighered.com/news/2018/04/23/when-college-goes-under-everyone-suffers-mountidas-faculty-feels-particular-sense)  
(April 23, 2018) ..... AR-G-0000753
- Freidman, Z., *Student Loan Debt Statistics In 2019: A \$1.5 Trillion Crisis*, Forbes (Feb. 25, 2019) ..... AR-G-0000761
- Hannaford-Agor, P., *Measuring the Cost of Civil Litigation: Findings from a Survey of Trial Lawyers*, Voir Dire, Spring 2013,  
<https://org/~www.ncsc./media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Civil%20Justice/Measuring-cost-civil-litigation.ashx>.Paula Hannaford-Agor (2013) ..... AR-G-0000774
- Hensler, D., *Court-Ordered Arbitration: An Alternative View*,  
University of Chicago Legal Forum, Volume 1990, Issue 1,  
Article 12, <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1074&context=uclf> (1990) ..... AR-G-0000781
- Ippolito, F. and Perez, A., *Credit Lines: The Other Side of Corporate Liquidity*, Barcelona Graduate School of Economics,  
March 2012, [https://www.barcelonagse.eu/sites/default/files/working\\_paper\\_pdfs/618.pdf](https://www.barcelonagse.eu/sites/default/files/working_paper_pdfs/618.pdf) (March 2012) ..... AR-G-0000805
- Jaschik, S., *Mount Ida, After Trying for a Merger, Will Shut Down*,  
[www.insidehighered.com/news/2018/04/09/mount-ida-after-trying-merger-will-shut-down](http://www.insidehighered.com/news/2018/04/09/mount-ida-after-trying-merger-will-shut-down) (April 9, 2018) ..... AR-G-0000855
- Light, A. and Strayer, W., *Determinants of College Completion: School Quality or Student Ability?*, 35 J. of Human Res. 299–332  
(2000) ..... AR-G-0000859
- Miller, D., *Predicting Future Recessions*, FEDS Notes,  
Washington Board of Governors of the Federal Reserve System,  
<https://doi.org/10.17016/2380-7172.2338> (May 6, 2019) ..... AR-G-0000894
- Schneider, M., *Are Graduates from Public Universities Gainfully Employed? Analyzing Student Loan Debt and Gainful Employment*,  
American Enterprise Institute for Public Policy Research (May 2014) .... AR-G-0000907
- Seltzer, R., *Spate of Recent College Closures Has Some Seeing Long-Predicted Consolidation Taking Off*,  
[www.insidehighered.com/news/2017/11/13/spate-recent-college-closures-has-some-seekinglong-predicted-consolidation-taking](http://www.insidehighered.com/news/2017/11/13/spate-recent-college-closures-has-some-seekinglong-predicted-consolidation-taking)  
(Nov. 13, 2017) ..... AR-G-0000917

Woodhouse, K., *Moody's Predicts College Closures to Triple By 2017*, Inside Higher Ed, <https://www.insidehighered.com/news/2015/09/28/moodys-predicts-college-closures-triple-2017> (Sept. 28, 2015) ..... AR-G-0000927

### **Financial, Economic and Accounting Resources**

FASB (Financial Accounting Standards Board), Accounting Standards Update (ASU) 2015-01, *Income Statement—Extraordinary and Unusual Items*, [https://www.fasb.org/jsp/FASB/Document\\_C/DocumentPage?cid=1176164695031&acceptedDisclaimer=true](https://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176164695031&acceptedDisclaimer=true) ..... AR-G-0000931

FASB, ASU 2016-02, *Leases (Topic 842)*, [https://www.fasb.org/jsp/FASB/Document\\_C/DocumentPage?cid=1176167901010&acceptedDisclaimer=true](https://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176167901010&acceptedDisclaimer=true) ..... AR-G-0001010

FASB, ASU 2016-14, Presentation of Financial Statement of Not-for-Profit Entities, at [http://fasb.org/jsp/FASB/Document\\_C/DocumentPage?cid=1176168381847&acceptedDisclaimer=true](http://fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176168381847&acceptedDisclaimer=true) ..... AR-G-0001201

FASB Concepts Statement No. 6, *Elements of Financial Statements* (as amended in 2008), [https://www.fasb.org/jsp/FASB/Document\\_C/DocumentPage?cid=1218220132831&acceptedDisclaimer=true](https://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1218220132831&acceptedDisclaimer=true) ..... AR-G-0001471

FASB Standards Landing Page  
[www.fasb.org/jsp/FASB/Page/LandingPage&cid=1175805317350](http://www.fasb.org/jsp/FASB/Page/LandingPage&cid=1175805317350) ..... AR-G-0001529

Mayer, C., Morrison, E., et al., *Mortgage Modification and Strategic Behavior: Evidence from A Legal Settlement with Countrywide*, National Bureau of Economic Research, <http://nber.org/papers/w17065.pdf> (May 2011)..... AR-G-0001531

New York Stock Exchange Rule 801.00  
[nysemanual.nyse.com/lcm/sections/lcmsections/chp\\_1\\_9/default.asp](http://nysemanual.nyse.com/lcm/sections/lcmsections/chp_1_9/default.asp)..... AR-G-0001589

Securities Exchange Commission Investor Bulletin:  
Trading Suspensions, [www.sec.gov/answers/tradingsuspension.htm](http://www.sec.gov/answers/tradingsuspension.htm) ..... AR-G-0001591

### **U. S. Department of Education Documents**

U.S. Department of Education, *Beyond the Box: Increasing Access to Education for Justice-Involved Individuals* (May 9, 2016), <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf> ..... AR-G-0001595

- U.S. Department of Education, Dear Colleague Letter  
GEN-03-08 (July 2003) ..... AR-G-0001649
- U.S. Department of Education, DPC Letter GEN-11-12, Trial Enrollment  
Periods (June 2011), <https://ifap.ed.gov/dpcletters/GEN1112.html> ..... AR-G-0001653
- U.S. Department of Education, *Fact Sheet: Protecting Students from Abusive Career Colleges* (June 8, 2015), [www.ed.gov/news/press-releases/factsheet-protecting-students-abusive-career-colleges](http://www.ed.gov/news/press-releases/factsheet-protecting-students-abusive-career-colleges) ..... AR-G-0001656
- U.S. Department of Education, Master Promissory Note,  
Direct PLUS Loans (expires April 30, 2019) ..... AR-G-0001665
- U.S. Department of Education, Master Promissory Note,  
Direct Sub & Unsub Loans (expires April 30, 2019) ..... AR-G-0001679
- U.S. Department of Education, Office of Federal Student Aid,  
*Fiscal Year 2018 Annual Report* (Nov. 15, 2018),  
<https://www2.ed.gov/about/reports/annual/2018report/fsareport.pdf> ..... AR-G-0001693
- U.S. Department of Education, Office of Federal Student Aid,  
*Federal Student Aid Handbook*, 2017-2018, High School Completion  
Verification<sup>1</sup>, <https://ifap.ed.gov/sites/default/files/attachments/fsahandbook/1718AVG.pdf> ..... AR-G-0001891
- U.S. Department of Education, Office of Federal Student Aid,  
*Federal Student Aid Handbook*, “School-Determined Requirements,”  
Pg. 1–10 (May 2018),  
<https://ifap.ed.gov/fsahandbook/attachments/1819FSAHbkVol1Ch1.pdf> ..... AR-G-0001893
- U.S. Department of Education, Office of Federal Student Aid,  
*Principal Office Functional Statements*,  
[https://www2.ed.gov/about/offices/list/om/fs\\_po/fsa/program.html](https://www2.ed.gov/about/offices/list/om/fs_po/fsa/program.html) ..... AR-G-0001895
- U.S. Department of Education, Office of Postsecondary Education,  
*Borrower Defense Claims: Data Analysis*, Nov. 1, 2017 ..... AR-G-0001901

---

<sup>1</sup> 84 Fed. Reg. at 49858 erroneously cited to page AVG-90 of the 2017-2018 FSA Handbook. The citation should have been to page AVG-87. Page AVG-87, not AVG-90, is included in the Administrative Record.

U.S. Department of Education, Office of Inspector General,  
*Federal Student Aid's Borrower Defense to Repayment Loan Discharge Process*, (Dec. 8, 2017), [www2.ed.gov/about/offices/list/oig/auditreports/fy2018/i04r0003.pdf](http://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/i04r0003.pdf) ..... AR-G-0001907

U.S. Department of Education, Office of Inspector General,  
*Federal Student Aid's Processes for Identifying At-Risk Title IV Schools and Mitigating Potential Harm to Students and Taxpayers*, (Feb. 24, 2017), [www2.ed.gov/about/offices/list/oig/auditreports/fy2017/a09q0001.pdf](http://www2.ed.gov/about/offices/list/oig/auditreports/fy2017/a09q0001.pdf) ..... AR-G-0001949

U.S. Department of Education, *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* (Aug. 25, 2008), [www2.ed.gov/policy/highered/reg/hearulemaking/hea08/negreg-faq.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/negreg-faq.html) ..... AR-G-0001974

### **Other United States Government Documents**

Executive Office of the President, Using Federal Data To Measure and Improve Performance (Jan. 2017) ..... AR-G-0001978

U. S. Bureau of Labor Statistics, Students' hourly rate estimated using BLS for Sales and Related Workers, All Other (2017), [www.bls.gov/oes/2017/may/oes\\_nat.htm#41-9099](http://www.bls.gov/oes/2017/may/oes_nat.htm#41-9099) ..... AR-G-0002061

U. S. Congress, Joint Resolution Disapproving CFPB's Rule on Arbitration Agreements, Pub. L. 115-74 (Nov. 1, 2017) ..... AR-G-0002062

U. S. Consumer Financial Protection Bureau, *Arbitration Study* (March 2015) ..... AR-G-0002063

U. S. Department of Defense, *Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents* (Aug. 9, 2006) ..... AR-G-0002790

U. S. Government Accountability Office, *Education Should Address Oversight and Communication Gaps in Its Monitoring of the Financial Condition of Schools*, GAO-17-555 (Aug. 2017), [www.gao.gov/products/GAO-17-555](http://www.gao.gov/products/GAO-17-555) ..... AR-G-0002880

U. S. Small Business Administration, Office of Advocacy, *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act* (August 2017), [www.sba.gov/sites/default/files/advocacy/How-to-Comply-with-the-RFA-WEB.pdf](http://www.sba.gov/sites/default/files/advocacy/How-to-Comply-with-the-RFA-WEB.pdf) ..... AR-G-0002921

## **Other Documents**

Accrediting Commission of Career Schools and Colleges, <i>Standards of Accreditation</i> (July 1, 2018), <a href="http://www.accsc.org/UploadedDocuments/1967/ACCSC-Standards-of-Accreditation-and-Bylaws-07118.pdf">http://www.accsc.org/UploadedDocuments/1967/ACCSC-Standards-of-Accreditation-and-Bylaws-07118.pdf</a> .....	AR-G-0003137
Predatory Student Lending Organization, <i>Department of Education's Borrower Defense Includes Fundamental Lie, Documents Show</i> (Aug. 3, 2018), <a href="https://predatorystudentlending.org/news/press-releases/department-educations-borrower-defense-includes-fundamental-lie-documents-show-press-release/">https://predatorystudentlending.org/news/press-releases/department-educations-borrower-defense-includes-fundamental-lie-documents-show-press-release/</a> .....	AR-G-0003291
RTI International, <i>Technical Review Panel No. 34 Calculating Job Placement Rates, Final Actions</i> , <a href="https://edsurveys.rti.org/IPEDS_TRP_DOCS/prod/documents/TRP34_Final_Action.pdf">https://edsurveys.rti.org/IPEDS_TRP_DOCS/prod/documents/TRP34_Final_Action.pdf</a> .....	AR-G-0003296
SAS Communities Library, <i>Tip: K-means clustering in SAS—comparing PROC FASTCLUS and PROC HPCLUS</i> (Aug. 4, 2014), <a href="https://communities.sas.com/t5/SASCommunities-Library/Tip-K-meansclustering-in-SAS-comparing-PROC-FASTCLUS-and-PROC/ta-p/221369">https://communities.sas.com/t5/SASCommunities-Library/Tip-K-meansclustering-in-SAS-comparing-PROC-FASTCLUS-and-PROC/ta-p/221369</a> .....	AR-G-0003297
SAS Institute Inc., <i>SAS/STAT® 9.2 User's Guide, Introduction to Clustering Procedures</i> (2008), <a href="http://support.sas.com/documentation/cdl/en/statugclustering/61759/PDF/default/statugclustering.pdf">support.sas.com/documentation/cdl/en/statugclustering/61759/PDF/default/statugclustering.pdf</a> ) .....	AR-G-0003310
SAS Support, <i>Usage Note 22540: How Can I Tell How Many Clusters Are in My Data Set?</i> (Aug. 5, 2009), <a href="http://support.sas.com/kb/22/540.html">support.sas.com/kb/22/540.html</a> .....	AR-G-0003356

## **SECTION H - BORROWER DEFENSE: OTHER MATERIALS**

Annualized and Present Value as of 2016 with Perpetual Time Horizon .....	AR-H-0000001
Closed School Search .....	AR-H-0000004
Direct Loan Dashboard AY 2015-2016 – Quarter 4.....	AR-H-0000075
Direct Loan Dashboard AY 2017-2018 – Quarter 4.....	AR-H-0000219
GE_SBA_v1 Code .....	AR-H-0000295

Hales, A. and Hay, S. <i>Stratifying Postsecondary, Private, for-Profit Schools</i> , Policy, Analysis, and Forecasting Group, Office of Postsecondary Education, Department of Education (Aug. 2017) .....	AR-H-0000306
Loan Model Assumptions-Major Assumptions - PB2020-Code files .....	AR-H-0000314
Loan Model Assumptions-Major Assumptions - PB2020-Excel files .....	AR-H-0000833
Loan Model Assumptions-Major Assumptions - PB2020-Output files .....	AR-H-0000916
PB2020 Direct Loan File 2019-2029 .....	AR-H-0001204
Regulatory Flexibility File .....	AR-H-0001209

#### **SECTION I - BORROWER DEFENSE: PUBLIC COMMENTS RECEIVED REGARDING NOTICE OF INTENT TO HOLD NEGOTIATED RULEMAKING**

Public Comments Regarding June 16, 2017 Notice of Intent to Hold Negotiated Rulemaking – *Comments are publicly available at <https://www.regulations.gov/docket?D=ED-2017-OPE-0076>*

#### **SECTION J - BORROWER DEFENSE: PUBLIC COMMENTS RECEIVED ON NPRM**

Public Comments on July 31, 2018 NPRM – *Comments are publicly available at <https://www.regulations.gov/docket?D=ED-2018-OPE-0027>*

#### **SECTION K - BORROWER DEFENSE: 2016 FINAL RULE AND DELAYS**

2016 Final Borrower Defense Rule (Nov. 1, 2016) .....	AR-K-0000001
Delay of Effective Date Final Rule (June 16, 2017) .....	AR-K-0000165
Interim Delay Rule (Oct. 24, 2017) .....	AR-K-0000167
Final Delay Rule (Feb. 14, 2018) .....	AR-K-0000175
Announcement that 2016 Rule Effective (March 19, 2019) .....	AR-K-0000188
FSA Guidance Regarding the Effective Provisions of the 2016 Final Rule (March 15, 2019) .....	AR-K-0000191

## Exhibit B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NEW YORK LEGAL ASSISTANCE GROUP, )  
Plaintiff, )  
Case No. 20 Civ. 1414  
-v- )  
ELISABETH DeVOS, in her official capacity )  
as Secretary of Education, )  
ADMINISTRATIVE  
RECORD  
CERTIFICATION  
and )  
UNITED STATES DEPARTMENT OF )  
EDUCATION, )  
Defendants. )

---

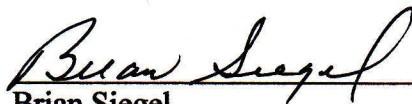
**DEFENDANTS' CERTIFICATION OF ADMINISTRATIVE RECORD**

I, Brian Siegel, pursuant to the provisions of 20 U.S.C. § 3472 and the authority delegated to me from the Secretary and the General Counsel of the U.S. Department of Education, hereby certify that the attached pages AR-A-000001 through AR-A-0000207, AR-B-0000001 through AR-B-0000107, AR-C-0000001 through AR-C-0000405, AR-D-0000001 through AR-D-0000792, AR-E-0000001 through AR-E-0000995, AR-F-0000001 through AR-F-0001237, AR-G-0000001 through AR-G-0003357, AR-H-0000001 through AR-H-0001210, AR-I-0000001 (incorporating by reference public comments for Docket ED-2017-OPE-0076), AR-J-0000001 (incorporating by reference public comments for Docket ED-2018-OPE-0027 ), and AR-K-0000001 through AR-K-0000203 as identified on the Administrative Record Index filed with this Certification, constitute true copies of the administrative record underlying the Department of

Education's decision concerning its final rule issued on September 23, 2019, at 84 Fed.

Reg. 49,788.

Made on this 9<sup>th</sup> day of June, 2020.



Brian Siegel

Deputy Assistant General Counsel  
Division of Postsecondary Education  
Office of the General Counsel  
U.S. Department of Education